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4 UNITED STATES DISTRICT COURT
5 WESTERN DISTRICT OF WASHINGTON
6 AT SEATTLE

7 REGINALD ROBINSON,)

8 Plaintiff,)

9 v.)

10 RENTON CITY JAIL CHIEF MANAGER, et)
al.,)

11 Defendants.)

Case No. C08-1359-JCC-BAT

ORDER OF DISMISSAL

12 This matter comes before the Court on Defendants' Motion for Dismissal of Complaint
13 (Dkt. No. 28), the Report and Recommendation of United States Magistrate Judge Brian A.
14 Tsuchida ("R&R") (Dkt. No. 40), and Plaintiff's Objection to the R&R (Dkt. No. 42).

15 **I. BACKGROUND**

16 Proceeding *pro se*, Plaintiff seeks relief pursuant to 42 U.S.C. § 1983. Plaintiff's Complaint
17 concerns events that occurred at Yakima County Department of Corrections ("YCDOC") facilities
18 between June 26, 2008, and July 30, 2008, when Defendant YCDOC Chief Michael Williams
19 denied Plaintiff's grievance concerning the disciplinary actions taken against him for ignoring a
20 direct order and refusing to work in the kitchen. (*See* Williams Decl. 18 (Dkt. No. 29).) Plaintiff's
21 Complaint alleges that (1) YCDOC "illegally punished [him] through their disciplinary
22 procedures," (2) he was placed in a holding unit with inmates "out of [his] custody class" in
23 "deliberate[] indifferen[ce] to [his] safety," and (3) the Renton Jail Chief and Manager is "a party

1 to the[se] abuses.” (*See* Compl. 4–5 (Dkt. No. 8).) The R&R describes the facts in detail, so the
2 Court does not repeat them here.

3 **II. DISCUSSION**

4 Magistrate Judge Tsuchida correctly found that there was no evidence to suggest that
5 Defendant Renton City Jail Chief and Manager participated in or knew about any of the alleged
6 abuses, and that the other allegations against that Defendant were “unsupported” and “conclusory.”
7 (*See* R&R 7 (Dkt. No. 40).) Plaintiff does not challenge either of these findings in his objection.
8 Accordingly, the Court ADOPTS the portion of the R&R that concerns the Renton City Jail Chief
9 and Manager and DISMISSES the claim against that Defendant.

10 Magistrate Judge Tsuchida also correctly found that Plaintiff failed to properly exhaust his
11 administrative remedies as required by the Prison Litigation Reform Act of 1995 (“PLRA”). 42
12 U.S.C. § 1997e(a) (“No action shall be brought with respect to prison conditions under section
13 1983 of this title, or any other Federal law, by a prisoner confined in any jail, prison, or other
14 correctional facility *until such administrative remedies as are available are exhausted.*”)
15 (emphasis added). Plaintiff filed a grievance with Defendant YCDOC Chief Michael Williams
16 (Inmate Grievance Form (Dkt. No. 8-2)), but did not appeal the denial of that grievance to the
17 “Director of the Department,” as required by the Inmate Handbook. (*See* Inmate Handbook 15
18 (Dkt. No. 29 at 13).) Moreover, Plaintiff never appealed the findings of the disciplinary hearing
19 against him, as is also required by the Inmate Handbook. (*Id.* at 14.)

20 In his Complaint, Plaintiff argues that the phrase “[n]othing follows” at the end of
21 Defendant Williams’s denial of his grievance “indicat[es] . . . the exhaustion of his administrative
22 remedies.” (Compl. 5 (Dkt. No. 8).) Magistrate Judge Tsuchida correctly explained that this
23 “farfetched” interpretation of the denial letter is unreasonable (*see* R&R 12 (Dkt. No. 40)), and is

1 plainly contradicted by the four-step grievance procedure outlined in the Inmate Handbook. (*See*
2 Inmate Handbook 15 (Dkt. No. 29 at 13).)

3 In his objection to the R&R, Plaintiff suggests for the first time that his grievance form was
4 not actually a grievance but was instead an appeal of his disciplinary hearing. (*See* Objection 2
5 (Dkt. No. 42) (noting that “there is no standard appeal form”).) Nowhere on his grievance form is
6 it indicated that Plaintiff intended it to be interpreted as an appeal of the disciplinary hearing
7 (Inmate Grievance Form (Dkt. No. 8-2)); indeed, in his Complaint, Plaintiff specifically describes
8 it as a “grievance” “concerning the health concerns and cleanliness & sanitation of the
9 [disciplinary holding] unit.” (Compl. 5 (Dkt. No. 8).) Moreover, Plaintiff’s form failed to meet
10 either of the two procedural requirements for appeals outlined in the Inmate Handbook. (*See*
11 Inmate Handbook 14 (Dkt. No. 29 at 13).)¹ Plaintiff’s after-the-fact recharacterization of his filing
12 cannot satisfy the requirement that he properly exhaust all available administrative remedies before
13 bringing a § 1983 action in federal court.

14 Plaintiff also argues in his objection that he should be excused from exhausting his
15 administrative remedies because Defendants violated the Inmate Handbook by failing to notify
16 him of the charges against him within seventy-two hours of the incident. (Objection 2 (Dkt. No.
17 42); *see also* Inmate Handbook 14 (Dkt. No. 29 at 13).) It is unclear to the Court whether
18 Defendants in fact failed to give Plaintiff proper notice, but, even if they did, it is completely
19 unrelated to Plaintiff’s failure to appeal the denial of his grievance or the findings of the
20 disciplinary hearing. Therefore, it would not excuse Plaintiff from the clear mandate that he

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23 ¹ The Inmate Handbook requires appeals of disciplinary hearings to be filed “within five days of receiving your
sanctions” and requires that the case number be listed on the appeal. (*See* Inmate Handbook 14 (Dkt. No. 29 at 13).)
Plaintiff’s grievance form was submitted ten days after the hearing and did not include the hearing case number. (*See*
Compl. 1–2 (Dkt. No. 8-2).)

1 properly exhaust his administrative remedies.

2 Because Plaintiff has failed to exhaust his administrative remedies as required by the
3 PLRA, the Court ADOPTS the portion of Magistrate Judge Tsuchida's R&R concerning the
4 exhaustion of remedies. As Plaintiff has failed to exhaust his administrative remedies, the Court
5 does not reach the merits of his claims.

6 **III. CONCLUSION**

7 For the foregoing reasons, Defendants' Motion for Dismissal (Dkt. 28) is GRANTED and
8 Plaintiff's Amended Complaint is DISMISSED with prejudice. The Clerk of Court is directed to
9 send copies of this Order to the parties and to Magistrate Judge Brian A. Tsuchida.

10 DATED this 1st day of May, 2009.

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A handwritten signature in black ink, reading "John C. Coughenour", is written over a horizontal line.

JOHN C. COUGHENOUR
United States District Judge